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draft
LEGISLATIVE HISTORY

of the

CENTRAL INTELLIGENCE AGENCY

NATIONAL SECURITY ACT OF 1947

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of footnotes*

Prepared by

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INTRODUCTION

This legislative history of the Central Intelligence Agency has been compiled in the interest of providing a better understanding of the structure and functions of the Central Intelligence Agency.¹

As a function of Government, foreign intelligence lies within the province of both the Legislative and Executive Branches. Not only does Congress possess the power of the purse but it has the power and responsibility to provide "...for the common Defense and general Welfare of the United States..."² Roots of relationship are even found in the power to declare war since "...the surest means of avoiding war is to be prepared for it in peace..."³

Equally clear is the responsibility of the Chief Executive to take executive action, not barred by the Constitution or other valid law of the land, which he deems necessary for the protection of the nation's security.

As a matter of fact, the Central Intelligence Agency is a product of both Executive and Legislative action. This partnership of action is seen in the major evolutionary stages that occurred during the period 1941 through 1949:

on December 30, 1942; exchange of funds without regard to section 3651. Revised Statutes (31 U.S.C. 543); purchase and free distribution of firearms, guard uniforms, special clothing, and other personal equipment; the use of and payment for compartments or other superior accommodations considered necessary by the Director of Strategic Services or his designated representatives for security reasons or the protection of highly technical and valuable equipment; [] of which amount such sums as may be authorized by the Director of the Bureau of the Budget may be transferred to other departments or agencies of the Government, either as advance payment or reimbursement of appropriation, for the performance of any of the functions or activities for which this appropriation is made: Provided, That [] of this appropriation may be expended without regard to the provisions of law and regulations relating to the expenditure of Government funds or the employment of persons in the Government service, and [] of such [] may be expended for objects of a confidential nature, such expenditures to be accounted for solely on the certificate of the Director of the Office of Strategic Services and every such certificate shall be deemed a sufficient voucher for the amount therein certified.

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CHAPTER II. LEGISLATIVE PROPOSALS - EXECUTIVE BRANCH

As early as 1944, legislation for a permanent post-war intelligence organization was seen as desirable.³⁹ In 1946 the Secretaries of State, War, and Navy believed that the preparation of organizational plans to "include drafts of all necessary legislation"⁴⁰ should be the first order of business following the establishment of central intelligence by Executive action.

CIG Consideration

Six months following the Presidential directive, Clark M. Clifford, Special Assistant to the President, was reviewing draft enabling legislation for a proposed Central Intelligence Agency (CIA). General Hoyt S. Vandenberg, USAAF, then the Director of Central Intelligence, in transmitting a revision of the draft to Mr. Clifford, wrote that the "current draft has been expanded in the light of the experiences of the last ten months and the administrative facilities available. However, it does not materially change interdepartmental relationships conceived in the original Presidential letter of January 22, 1946."⁴¹

The CIG's comprehensive legislation proposal contained a statement of policy that "foreign intelligence activities, functions, and services of the Government be fully coordinated, and, when determined in accordance with the provisions of this act, be operated centrally for the accomplishment of the national intelligence mission of the United

CHAPTER III. CONGRESSIONAL CONSIDERATION OF THE
NATIONAL SECURITY ACT OF 1947

Background

On 26 February 1947 the President transmitted a draft bill entitled "National Security Act of 1947" to the President of the Senate pro tempore and the Speaker of the House of Representatives and recommended its enactment by the 80th Congress. Prior to this date consideration had been given in both Houses to the need for a Government-wide foreign intelligence service and the structure it should take.

House: During the 79th Congress, the House Committee on Military Affairs had issued "A report on the System Currently Employed in the Collection, Evaluation, and Dissemination of Intelligence Affecting the War Potential of the United States."⁴⁹ The report recognized the need for strong intelligence as the "nation's final line of defense," and made nine very specific recommendations:

Recommendation 1: That the National Intelligence Authority, established on January 22, 1946, by Presidential directive, be authorized by act of Congress.

Recommendation 2: That the National Intelligence Authority shall consist of the Secretaries of State, War, and the Navy, or deputies for intelligence.

Recommendation 3: That the Central Intelligence Group receive its appropriations direct from the Congress.

Recommendation 4: That the Central Intelligence Group has complete control over its own personnel.

Senate: In terms of legislative processing during the 79th Congress, the Senate got further than the House. The Senate Committee on Military Affairs reported out a bill proposing a National Security Council outside of the national defense establishment and a Central Intelligence Agency for the purpose of coordinating military and civilian programs, policies, and plans in the foreign intelligence field.⁵⁰ This bill was introduced as S. 2044 by Senators Lister Hill (D., Ala.), Elbert D. Thomas (D., Utah), and Warren R. Austin (R., Vt.) on 9 April 1946, pursuant to President Truman's unification message of 19 December 1945.

The need for "national intelligence" was underscored by General George C. Marshall in hearings before the Senate Committee on Military Affairs:

"Intelligence relates to purpose as well as to military capacity to carry out that purpose. The point, I think, is we should know as much as we possibly can of the possible intent and the capability of any other country in the world... Prior to entering the war we had little more than what a military attache could learn at a dinner, more or less, over the coffee cups... Today I think we see clearly we must know what the other fellow is planning to do, in our own defense... The important point is that the necessity applies equally outside of the armed forces. It includes the State Department and other functions of the Government, and it should therefore be correlated on that level."⁵¹

While S. 2044 was favorably acted upon by the Senate Military Affairs Committee, the Senate Committee on Naval Affairs, which had concurrent jurisdiction, did not report it out.

Thus, the crucible for central intelligence was carried over to the first session of the 80th Congress in the Presidential draft of the National Security Act of 1947. Title I of the draft concerned the "National Defense Establishment." Title II, entitled "Coordination for National Security," provided for the National Security Council and the Central Intelligence Agency.⁵²

Legislative Processing

Faced with a complicated and vital legislative task related to the nation's future security, Congress deliberated on the National Security Act of 1947 for nearly five months.

Senate: Introduction of a bill incorporating the President's draft was temporarily delayed while the Senate determined which standing committee would have jurisdiction over the bill. The Committee on Expenditures in the Executive Departments (now the Committee on Government Operations) questioned the decision of the President pro tempore, Arthur Vandenburg (R., Mich.) in referring the measure to the Armed Services Committee.⁵³ The Senate upheld the President pro tempore's ruling on 3 March 1947 and Senator Chan Gurney (R., S. D.), Chairman of the Senate Armed Services Committee, then introduced the measure as S. 758. The Senate Armed Services Committee held hearings for ten weeks, went into executive session on 20 May, and reported out an amended version of S. 758 on 5 June.⁵⁴ The bill was considered by the Senate on 7 and 9 July and was approved by voice vote.

CHAPTER IV. NEED FOR CENTRAL INTELLIGENCE

The need for institutionalizing central intelligence was established in certain committee findings during the 79th Congress and was to be stressed again during the 80th Congress.

In anticipation of hearings on S. 758, Senator Thomas⁵⁶ made a major address to the Senate on the "President's" bill and emphasized the need for a Central Intelligence Agency:⁵⁷

"Neither the War Department nor the Navy Department had an intelligence service adequate to our needs when the war broke out. The intelligence agencies in each Department operated separately for the most part, except for the exchange of routine military and naval attache reports. There was no real integration of intelligence at the operating level, and no established liaison with the State Department. Though funds were inadequate, there was much duplication of effort by the services.

"The war brought substantial appropriations and drastic reorganization. The Office of Strategic Services was finally set up under the jurisdiction of the Joint Chiefs of Staff, and acted as the central coordinating agency in intelligence matters. Later, the Joint Intelligence Committee and its subcommittees made further provision for the coordination of intelligence activities. In spite of these and other changes, however, much unnecessary duplication existed in the intelligence services of the State, War, and Navy Departments. The significance of the collection, analysis, and evaluation of information concerning foreign countries is no less great now than it was during the war. The effective conduct of both foreign policy and military policy is dependent on the possession of full, accurate, and skillfully analyzed information concerning foreign countries. With our present world-wide sphere of international responsibility and our position among the world powers, we need the most efficient intelligence system that can be devised. Organization, of course, is not the whole story. We do know, however, that there is no returning to the prewar system, where the War, Navy and State Departments went their respective ways. We have now a central intelligence agency established by executive action. Provision for such an agency should

be made in permanent legislation. It seems entirely logical that such an agency should be placed in the framework of any agency that might be set up to coordinate military and foreign policies."

Senate Armed Services Committee

The theme so strongly stated by Senator Thomas was reiterated and amplified before the Senate Armed Services Committee during the hearing on S. 758: (Excerpts follow)

Vice Admiral Forrest Sherman (member of the White House drafting team and detailed by the Secretary of Navy to work with the Military Affairs Committee on the Common Defense Act of 1946): "I consider the Central Intelligence Agency to be a vital necessity under present world conditions. Its necessity will increase with our greater international responsibilities as the power of sudden attack is amplified by further developments in long range weapons and weapons of mass destruction."⁵⁸

Lt. General Hoyt S. Vandenberg (Director of Central Intelligence):⁵⁹ I sincerely urge adoption of the intelligence provisions of this bill. Section 202 will enable us to do our share in maintaining the national security. It will form a firm basis on which we can construct the finest intelligence service in the world.

"In my opinion, a strong intelligence system is equally if not more essential in peace than in war. Upon us has fallen leadership in world affairs. The oceans have shrunk until today both Europe and Asia border the United States almost as do Canada and Mexico. The interests, intentions, and capabilities of the various nations on these land masses must be fully known to our national policy makers. We must have this intelligence if we are to be forewarned against possible acts of aggression, and if we are to be armed against disaster in an era of atomic warfare...

"I think it can be said without successful challenge that before Pearl Harbor we did not have an intelligence service in this country comparable to that of Great Britain or France or Russia or Germany or Japan. We did not have one because the people of the United States would not accept it. It was felt that there was something un-American about espionage and even about intelligence generally. There was a feeling that

"For months we had to rely blindly and trustingly on the superior intelligence system of the British. Our successes prove that this trust was generally well placed. However, in matters so vital to a Nation having the responsibilities of a world power, the United States should never again have to go hat in hand, begging any foreign government for the eyes-- the foreign intelligence - with which to see. We should be self-sufficient. The interests of others may not be our interests...

"The need for our own coordinated intelligence program has been recognized in most quarters. The Pearl Harbor disaster dramatized that need and stopgap measures were adopted. As the war drew to a close, the President directed the Joint Chiefs of Staff to study the problem and draft recommendations for the future.

"By the assignment of primary fields of intelligence responsibilities, we are - in the fields of collection, production, and dissemination - preventing overlapping functions - that is, eliminating duplicate roles and missions, and eliminating duplicate services in carrying out these functions."

House Committee

Testimony before the House Committee on Expenditures in the Executive Departments provided additional insights into the need for structuring foreign intelligence functions on a Government-wide basis.

General Carl Spaatz, Commanding General, Army Air Force:
"The bill provides the basic elements of security of which we may mention five... Fourth, correct intelligence. The bill provides for enlargement of our capacity to know the capabilities of our possible enemies, how they can attack us, and with what. Each service will retain its own technical intelligence with its own trained attaches abroad. The CIA will coordinate information from all the services, as well as from other branches of the Government."60

Fleet Admiral Chester Nimitz: "The bill will establish a Central Intelligence Agency with the responsibility for collection of information from all available sources, evaluation of that information and dissemination thereof. This Agency is intended to secure complete coverage of the wide field of intelligence and should minimize duplication. The bill recognizes that military intelligence is a composite of authenticated

and evaluated information covering not only the armed forces establishment of a possible enemy but also his industrial capacity, racial traits, religious beliefs, and other related aspects."⁶¹

Secretary James V. Forrestal (Secretary of the Navy;⁶² listed the CIA second among the essentials of the bill, after the National Security Council): "The need for that (CIA) should be obvious to all of us."⁶³

Rep. W. J. Dorn (D., S.C.): "With regard to the Central Intelligence Agency - I may be wrong, but I have always felt that if Admiral Kimmel had had proper intelligence from Washington the attack on Pearl Harbor would not have occurred, or at least we would have been able to meet it better. From your experience, do you think that this Central Intelligence Agency alone would warrant passage of this bill?"

Vice Admiral Arthur Radford: "Of course, I think it is most important. Actually it is in existence now. It is already functioning."⁶⁴

Committee Reports

The Senate Committee report on S. 758 concluded: "To meet the future with confidence, we must make certain...that a Central Intelligence Agency collects and analyzes that mass of information without which the Government cannot either maintain peace or wage war successfully."⁶⁵

The House Committee report on H.R. 4214 was equally clear and succinct in its conclusion: "The testimony received by your committee discloses an urgent need for a continuous program of close coordination between our domestic, foreign and military policies so that we may always be able to appraise our commitments as a Nation in the light of our resources and capabilities. This, your committee

House. The need for centralizing national intelligence drew wide support from many members of the House during the floor discussion of H.R. 4214:

Rep. James Wadsworth (R., N.Y.): "This (H.R. 4214 and the instrumentalities it establishes) links the military policy with foreign policy, all measured by our resources and the potentialities of other people."⁷⁰

Rep. Fred Busbey (R., Ill.) (although troubled with certain features of the CIA section): "I am not opposed to a central intelligence agency. ... You remember Pearl Harbor. They had intelligence, but it was not correlated and evaluated correctly."⁷¹

Rep. Walter Andrews (R., N.Y.): "On the next level above the National Military Establishment there is provided the National Security Council with the President as chairman, which will effectively coordinate our domestic and foreign policies in the light of sound information furnished by the Central Intelligence Agency."⁷²

Rep. Robert Sikes (D., Fla.): "During the intervening years between wars we have never had a proper balance between our foreign and military policies... We have never been fully informed of the capabilities, potential or intent of likely enemies... This is another time when we can well say, 'Remember Pearl Harbor.'"⁷³

Rep. Dewey Short (R., Mo.): "Mr. Chairman, on every score and by every count we should vote adequate funds for... our Central Intelligence - which has been lamentably weak - ... These (including Central Intelligence) are the things above all others which will guarantee our security."⁷⁴

Rep. W.J. Bryan Dorn (D., S.C.): "Mr. Chairman, one of the most important features of this bill is the Central Intelligence Agency. I would like for you to turn back with me this afternoon to the most terrible period preceding World War II. Why, you had most of the newspapers and people in this country thinking that Adolf Hitler was a comic character, that a war in Europe could not last through the winter - I remember those editorials quite well - that Germany would not last through the winter of 1939. I remember officers of the Navy coming back from observation posts in the Pacific and saying that the Japanese could not

last 3 weeks in a war with America. The Government in Washington was stunned and shocked beyond belief when it suddenly realized that Paris and France would fall.

"An important Member of the other body, who is still serving in that body, said that a few bombs on Tokyo would knock them out of the war. What a woeful lack of intelligence as to the potential power of our enemies. People were saying that Mussolini would not attack; that he was only bluffing. Around the world there was a total lack of knowledge of those forces that were marshalling to destroy American democracy. I tell you gentlemen of the committee that your central intelligence agency is a very important part of this bill."75

Rep. Chet Holifield (D., Calif.): "I want to read to you some of the conclusions of the Pearl Harbor Committee, as follows. Their conclusions were: 'That the Hawaiian Command failed to discharge their responsibility in the light of the warnings received from Washington, and other information possessed by them and the principal command by mutual cooperations. (B) They failed to integrate and coordinate their facilities for defense, to alert properly the Army and Navy Establishments in Hawaii, particularly in the line of warning and intelligence available to them during the period November 27 to December 7, 1941. They failed to effect liaison on a basis adequately designed to acquaint each of them with the operations of the other, which was necessary to their joint security, and to exchange fully all significant intelligence, and they also failed to appreciate and evaluate the significance of the intelligence and other information available to them.' "76

Rep. Robert A. Harness (R., Ind.): "Now a word about the Central Intelligence Agency. When such an organization was first proposed I confess I had some fear and doubt about it. Along with other members of the Committee, I insisted that the scope and authority of this Agency be carefully defined and limited. Please bear in mind that this is a bold departure from American tradition. This country has never before officially resorted to the collection of secret and strategic information in time of peace as an announced and fixed policy. Now, however, I am convinced that such an Agency as we are now considering is essential to our national security."77

CHAPTER V. POSITION WITHIN EXECUTIVE BRANCH

The position that should be prescribed for the CIA within the Executive Branch was understandably of considerable interest. This was the very narrow of the central intelligence concept and an antecedent to its disposition was an appreciation of the "supra-departmental" nature of the relationships which had been established within the "intelligence community" under the National Intelligence Authority.

It is recalled that the 22 January 1946 Presidential Directive⁸⁰ placed the Director of Central Intelligence and the Central Intelligence Group under the control of the President's chief advisors in international and military affairs, the Secretaries of State, War, and Navy, and the personal representative of the President. The DCI was a non-voting member of the NIA.

Following this pattern, the proposed National Security Act of 1947 simply established "...under the National Security Council a Central Intelligence Agency with a Director of Central Intelligence, who shall be the head thereof..." and transferred "...the functions of the National Intelligence Authority...to the National Security Council."⁸¹ These functions were to plan, develop, and coordinate all Federal foreign intelligence activities "...to assure the most effective accomplishment of the intelligence mission related to the national security."⁸² The functions of the DCI and the CIG under the NIA were transferred also to the DCI and the CIA Act.

Relationship with Intelligence Community

While the CIA was established under the National Security Council as proposed by Administration, Congressional consideration helped to illuminate the supra-departmental nature of the Agency's function as much as it did to ratify earlier Executive Branch action.

The second concern relating to the establishment of the CIA under the National Security Council was whether this arrangement would support satisfactory relationships between the CIA and the departments and their intelligence agencies. This concern was brought out in the following colloquy during the Senate Committee hearings: ⁹⁰

Senator Tydings (D., Md.): "...when you get down to the Central Intelligence Agency, which certainly is one of the most important of all the functions set forth in the bill, I notice that it reports directly to the President and does not seem to have any line running to the War Department, or the Navy Department, or to the Secretary for Air. And I was wondering if that rather excluded position, you might say, was a wholesome thing. It seems to me that Central Intelligence Agency ought to have more direct contact with the Army and the Navy and the Air Force; and as I see it on the chart here, it is pretty well set aside and goes only to the President. What is the reason for that?"

Admiral Sherman: "Well, sir, this diagram shows the primary control of the Central Intelligence Agency through the National Security Council which, of course, is responsible to the President. But, of course, the Central Intelligence Agency, by its detailed directive, takes information in from the military services and also supplies them with information.

"In other words, it is a staff agency and controlled through the National Security Council, which is supported by the military services, and in turn, supports them."

Senator Tydings: "It seems to me that of course they would diffuse such information as a matter of orderly procedure

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CHAPTER VI. FUNCTIONS

The basic functions of a national foreign intelligence organization were prescribed as early as 1941 in connection with the appointment of the Coordinator of Information; continued in 1942 in the case of OSS in a form tailored to the war effort; reviewed in 1944 within the Executive Branch as "Donovan's 10 Principles"; reaffirmed in 1945 in the plan of the Joint Chiefs' and the recommendation of the Secretaries of State, War and Navy; and in 1946 directed by the President as responsibilities of the Director of Central Intelligence.

In 1947 the basic functions of a national foreign intelligence organization were approved by the Congress of the United States in Section 102 of the National Security Act of 1947:

(d) For the purpose of coordinating the intelligence activities of the several Government departments and agencies in the interest of national security, it shall be the duty of the Agency, under the direction of the National Security Council--

(1) to advise the National Security Council in matters concerning such intelligence activities of the Government departments and agencies as relate to national security;

(2) to make recommendations to the National Security Council for the coordination of such intelligence activities of the departments and agencies of the Government as relate to the national security;

(3) to correlate and evaluate intelligence relating to the national security, and provide for the appropriate dissemination of such intelligence within the Government using where appropriate existing agencies and facilities: Provided, That the Agency shall have no police, subpoena, law-enforcement powers, or internal-security functions: Provided further, That the departments and other agencies of the Government shall continue to collect, evaluate, correlate, and disseminate departmental intelligence:

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And provided further: That the Director of Central Intelligence shall be responsible for protecting intelligence sources and methods from unauthorized disclosure;

(4) to perform, for the benefit of the existing intelligence agencies, such additional services of common concern as the National Security Council determines can be more efficiently accomplished centrally;

(5) to perform such other functions and duties related to intelligence affecting the national security as the National Security Council may from time to time direct.

Thus, with slight modification and with a birthright back to 1941, the responsibilities of the Director of Central Intelligence⁹⁹ under the 22 January 1946 Presidential Directive were specified in the National Security Act of 1947 as duties for the CIA and imposed upon the DCI as the head of the Agency.

The approval of Section 102 involved more than placing a statutory capstone on six years of prior development within the Executive Branch. For a number of reasons already suggested,¹⁰⁰ Congress was to show deep interest in the functions of CIA.

Senate. It is recalled that the President's proposal sought to incorporate the 22 January 1946 Presidential Directive by referencing the functions of the DCI and CIG under it and transferring them to the DCI and the CIA under the proposed Act. This procedure caused some discomfiture within the Senate committee in connection with CIA's responsibilities to the departments and their intelligence agencies. Senator Tydings registered his concern over the lack of specificity on this issue and remarked that the CIA section as proposed by the President "deals more or less with

consolidation and not with the duties that devolve upon that office. It seems to me that there is a void in the bill that ought to be eliminated."¹⁰¹

While the Senate committee and the Senate were willing to await the early submission of enabling legislation for CIA to correct what was viewed by some as a deficiency, Senator Edward Robertson (R., Wyo.) commented when the measure reached the Senate floor, "It is necessary to go to Executive Order to find out what the functions and the powers of the Central Intelligence Agency are to be. Many...have taken the trouble to do so -- and I comment parenthetically that it should not be necessary to go to Executive Order to interpret a statute."¹⁰²

The functions of the CIA were eventually spelled out in the National Security Act of 1947 in line with a determination that "...it is better legislative practice to spell out such duties in the interests of clarity and simplicity."¹⁰³

House Committee. The interest of the House Committee on Expenditures Departments in the functions for the CIA is illustrated in Mr. Busbey's questioning of Secretary Forrestal:¹⁰⁴

Rep. Busbey (R., Ill.): "Mr. Secretary, this Central Intelligence Group, as I understand it under the bill, is merely for the purpose of gathering, disseminating, and evaluating information to the National Security Council, is that correct?"

Secretary Forrestal: "That is a general statement of their activity."

Rep. Busbey: "I wonder if there is any foundation for the rumors that have come to me to the effect that through this Central Intelligence Agency, they are contemplating operational activities?"

Rep. Harness (R., Ind.) then asked if that was

"...the only reason given why you preferred to simply transfer the Security Agency under the Executive order rather than to write in the act, the functions of the Agency?"

Admiral Sherman replied:

"That was the only reason from my point of view, sir. I felt that that was rather a large subject by itself, and that it would unduly complicate this other legislation."

Rep. Harness concluded by observing:

"But at the same time you proposed later on to ask the Congress to enact a law that would do that very thing?"

Summary

The Presidential Directive of 22 January 1946 was entered into the Record in the Committee hearings¹⁰⁷ and the basic functions of the Director of Central Intelligence under that directive were described by General Vandenberg before both committees in the following terms:¹⁰⁸

"The Director of Central Intelligence is presently charged with the following basic functions:

1. The collection of foreign intelligence information of certain types - without interfering with or duplicating the normal collection activities of the military and naval intelligence services, or the Foreign Service of the State Department.
2. The evaluation, correlation and interpretation of the foreign information collected, in order to produce the strategic and national policy intelligence required by the President and other appropriate officials of the Government.
3. The dissemination of the national intelligence produced.
4. The performance of such services of common concern to the various intelligence agencies of the Government as can be more efficiently accomplished centrally.
5. Planning for the coordination of the intelligence

CHAPTER VII. COLLECTION

Background

Certain elements within the intelligence community had feared from the outset that a centralized organization would so dominate the intelligence field that it would encroach upon departmental collection, evaluation, and dissemination functions. In the interest of assuaging these fears, the Presidential Directive provided that "The existing intelligence agencies of your Departments (State, War, and Navy) shall continue to collect, evaluate, correlate and disseminate departmental intelligence."

Notwithstanding this qualification, however, a House report¹¹⁰ of the 79th Congress, apparently again reflecting the reservation of certain elements in the intelligence community, recommended that the Director of Central Intelligence "... should not undertake operations for the collection of intelligence."¹¹¹ Prior to the issuance of this House report, the National Intelligence Authority, in furtherance of its responsibility to insure "the most effective accomplishment of the intelligence mission relating to the National security," had directed that:

"...the Director of Central Intelligence is hereby directed to perform the following services of common concern, which this authority has determined can be more efficiently accomplished centrally: Conduct of all organized Federal espionage and counter-espionage operations outside the United States and its possessions for the collection of foreign intelligence information required for the national security..."

House Committee

Therefore, when this issue was again raised during the 80th

Congress, the Secretaries of State, War, and Navy constituted as the National Intelligence Authority, sent a letter to Clare Hoffman, Chairman, House Committee on Expenditures in the Executive Departments, which referred to the 8 July 1946 directive and denied charges appearing in the press that the CIG had usurped various departmental intelligence functions and had forced established organizations out of the field. Excerpts from that 26 June 1947 letter follow:

"It has long been felt by those who have successfully operated clandestine intelligence systems that such work must be centralized within one agency. As a corollary to this proposition, it has likewise been proven that a multitude of espionage agencies results in two shortcomings: first, agents tend to uncover each other or block each other's funds or similarly neutralize each other, being unaware of identical objectives; second, each agency tends to hoard its own special information or attempts to be the first to deliver a choice piece of information to higher authorities. This latter type of competition does not permit the overall evaluation of intelligence on a given subject, as each agency is competing for prestige...

"The Central Intelligence Group should be free to assume, under our direction, or the subsequent direction of a National Security Council, the performance, for the benefit of the intelligence agencies of the Government, of such services, of common concern, including the field of collection, as this Authority or a subsequent Council determines can be most efficiently performed centrally."

In keeping with the precedent of not publicizing espionage as an activity of the United States Government, almost all discussion relating to the clandestine collection function was deleted from the printed committee hearings. However, the day after Chairman Hoffman had received the 27 June letter from the National Intelligence Authority, the House Committee on Expenditures in the Executive Departments

a field which for its full exploitation must be world-wide and closely integrated, with no competing agents working at cross purposes.

- (c) Covert activities are occasionally exposed by foreign governments. It is desirable that no embarrassment, such as exposure may entail, should fall upon the State, War, or Navy Departments which must protect the diplomatic standing of their missions and attaches."

There is no record of any subsequent challenge to either the authority or the desirability of the Agency engaging in certain espionage and counter-espionage activities.

Summary

In connection with the 22 January 1946 Presidential Directive, it was determined that it was not in the interest of the United States to refer to clandestine collection (espionage) in public documents.¹¹³ Apparently following the precedent thus established, the House Committee did not specify the collection function in the legislation. Instead, the House Committee inserted language essentially identical to both the common concern and catch-all provision of the Presidential Directive:

"Sec. 102 (d) (4) to perform, for the benefit of the existing intelligence agencies, such additional services of common concern as the National Security Council determines can be more efficiently accomplished centrally;

(5) to perform such other functions and duties related to intelligence affecting the national security as the National Security Council may from time to time direct."

Thus, the authority and indeed the responsibility for certain intelligence collection was deferred to the general authorities and responsibilities of Section 102 (d) with the knowledge of the manner in which these general authorities and responsibilities had been implemented in the past and would be implemented in the future.

CHAPTER VIII. CIVILIAN STATUS OF DCI

The civilian status of the Director of Central Intelligence became a central issue in the Congress. Undoubtedly, the language of the Presidential proposal¹¹⁴ contributed to the doubts of members concerned with retaining civilian control over the armed forces: "...we have constantly kept a civilian in the positions of Secretary of War and Secretary of Navy, and this bill provides that the Secretary of Defense shall be a civilian. I think it is for the same reason exactly, (to have a civilian DCI) to safeguard and to make certain there is not to be any usurpation of power."¹¹⁵

An amendment requiring a civilian Director passed the House in line with "...a legitimate fear in this country lest we develop too much military control of an agency which has great powers and operates in secret..."¹¹⁶ While the requirement was eliminated in conference, the House conferees pointed out the compromise provision seeks "...to divorce the head of the agency from the armed services if a man in the service is appointed."¹¹⁷

Three months earlier General Vandenberg was succeeded as Director of Central Intelligence by Admiral Roscoe Hillenkoetter. The Washington Post, in a 3 May 1947 editorial, observed:

"...General Vandenberg's resignation points up a fundamental weakness in our intelligence set up which is carried over in the new Central Intelligence Authority (sic) envisioned under the armed forces merger bill. That is the weakness of permitting a military man to retain his active duty status while serving as

"A resigned military officer is no longer under the control or direction of the military branch. A retired military officer is subject to recall in time of emergency, still has to take certain orders and instructions from the military branch of the Government. The gentleman from Minnesota (Mr. Judd) in his provision to permit a military officer to hold the post, set up certain safeguards. My amendment goes the whole way."130

Conference Committee

Congressman Judd's amendment as amended by the substitute offered by Congressman Brown, requiring that the Director be a civilian when appointed, was adopted by the House. However, the committee of conference on the disagreeing votes of the two Houses on S. 758 recommended on 24 July 1947 the identical language which had been reported out by the House Committee on Expenditures in the Executive Departments:

"Sec. 102. (a) There is hereby established under the National Security Council a Central Intelligence Agency with a Director of Central Intelligence, who shall be the head thereof. The Director shall be appointed by the President, by and with the advice and consent of the Senate, from among the commissioned officers of the armed services or from among individuals in civilian life. The Director shall receive compensation at the rate of \$14,000 a year.

(b) (1) If a commissioned officer of the armed services is appointed as Director then--

(A) in the performance of his duties as Director, he shall be subject to no supervision, control, restriction, or prohibition (military or otherwise) other than would be operative with respect to him if he were a civilian in no way connected with the Department of the Army, the Department of the Navy, the Department of the Air Force, or the armed services or any component thereof; and

(B) he shall not possess or exercise any supervision, control, powers, or functions (other than such as he possesses, or is authorized or directed to exercise, as Director) with respect to the armed services or any component thereof, the Department of the Army, the Department of the Navy, or the Department of the Air Force, or any branch, bureau, unit or division thereof, or with respect to any of the personnel (military or civilian) of any of the foregoing.

It is recalled, however, that the CIA section of the Presidential draft of the National Security Act of 1947 relied upon the legislative technique of establishing the functions of the DCI and CIA by reference to the 22 January 1946 Presidential Directive. Consequently, the specific language of proscription of the Presidential Directive did not appear in the CIA section. This lack of specificity together with the overall concern with the general subject of internal security led the House Committee to insert a provision in the Act "...prohibiting the Agency from having the power of subpoena and from exercising internal police powers, provisions not included in the original bill nor in S. 758."¹³⁶

House Committee Executive Session

The House Committee considered the issue of internal security from two different aspects. The first related to simply prohibiting the Agency from engaging in internal security functions. The second concern related to the Agency's relationship with the Federal Bureau of Investigation in the interest of assuring the integrity of "domestic information" in the files of the Bureau. The issue of internal security from both of these aspects was developed before the House Committee as brought out in the following colloquies during executive session:

General Vandenberg (in replying to a question as to whether the Central Intelligence Group operated in foreign or domestic fields): "The National Intelligence Authority and the Central Intelligence Group have nothing whatsoever to do with anything domestic; so whenever we talk about the Central Intelligence Group or the NIA, it always means foreign intelligence, because we have nothing to do with domestic intelligence."

House Committee Open Hearings

The House Committee on Expenditures' concern with the internal security was also brought out in public hearings:

Rep. Brown (in questioning the Secretary of the Navy): "This Chief of the Central Intelligence Agency, the Director, should he decide he wants to go into my income tax reports, I presume he could do so, could he not?"

Secretary Forrestal: "I do not assume he could.

"I think he would have a very short life--I am not referring to you, Mr. Brown, but I think he would have a very short life."

Rep. Brown: "Well, he probably would, if he sent (sic) into mine, but I was wondering how far this goes.

"This is a very great departure from what we have done in the past, in America.

"Perhaps we have not been as good as we should have been, and I will agree with that, either in our military or foreign intelligence, and I am very much interested in seeing the United States have as fine a foreign military and naval intelligence as they can possibly have, but I am not interested in setting up here in the United States any particular central policy agency under any President, and I do not care what his name may be, and just allow him to have a gestapo of his own if he wants to have it.

"Every now and then you get a man that comes up in power and that has an imperialistic idea."

Secretary Forrestal: "The purposes of the Central Intelligence Authority are limited definitely to purposes outside of this country, except the collation of information gathered by other Government agencies.

"Regarding domestic operations, the Federal Bureau of Investigation is working at all times in collaboration with General Vandenberg. He relies upon them for domestic activities."

Rep. Brown: "Is that stated in the law?"

Secretary Forrestal: "It is not; no, sir."

Rep. Brown: "That could be changed in 2 minutes, and have the action within the United States instead of without; is that correct?"

Secretary Forrestal: "He could only do so with the President's direct and specific approval."

or internal security functions shall be exercised under this directive, ' and I felt that that was fairly concise about the matter that has been discussed here. "

Rep. Harness: "Of course, that can be changed, can it not?"

Admiral Sherman: "I would not think so under this legislation; but I am not a lawyer. If there is concern about it, it seems to me that it is something that could be rectified with very few words. "

Rep. Harness: "Well, did you have anything to do with the drafting of this bill, Admiral?"

Admiral Sherman: "Yes, sir; I had a great deal to do with it..."¹⁴⁶

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Dr. Bush (in answering a question concerning the danger of the Central Intelligence Agency becoming a Gestapo): "I think there is no danger of that. The bill provides clearly that it is concerned with intelligence on internal affairs, and I think this is a safeguard against its becoming an empire.

"We already have, of course, the FBI in this country, concerned with internal matters, and the collection of intelligence in connection with law enforcement internally. We have had that for a good many years. I think there are very few citizens who believe this arrangement will get beyond control so that it will be an improper affair."¹⁴⁷

House Floor

In line with the House Committee's overall desire for specificity in provisions relating to the Central Intelligence Agency, H. R. 4214, as reported out, contained the provision "...that the Agency shall have no police subpoena, law-enforcement powers, or internal-security functions."¹⁴⁸

Thus, Congressman Holifield could explain during the floor discussion:

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CHAPTER IX. INTERNAL SECURITY

As early as 1944, a statement of principles formulated for the President maintained:

"That such a Service (Permanent United States Foreign Intelligence Service) should not operate clandestine intelligence within the United States.

"That it should have no policy functions and should not be identified with any law-enforcing agency either at home or abroad."¹³⁴

The Presidential Directive of 22 January 1946 reinforced and implemented these principles by providing that:

"4. No police, law enforcement or internal security functions shall be exercised under this directive," and

"9. Nothing herein shall be construed to authorize the making of investigations inside the continental limits of the United States and its possessions, except as provided by law and Presidential directives."

Thus, the issue of internal security had received attention from the outset, and a clear and complete divorce between internal security functions and foreign intelligence functions had been explicitly implemented.

Testifying before the Senate Armed Services Committee and House Committee on Expenditures in the Executive Departments, General Vandenberg pointed out that the President's directive:

"...includes an express provision that no police, law enforcement, or internal security functions shall be exercised. These provisions are important, for they draw the lines very sharply between the CIG and the FBI. In addition, the prohibition against police powers or internal security functions will assure that the Central Intelligence Group can never become a Gestapo or security police."¹³⁵

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Summary

A clear and complete divorce from internal security functions had been a constant principle for a Government-wide foreign intelligence service since its early conceptualization.

Clearly, however, a Government-wide foreign intelligence service had a legitimate interest in using domestic sources for obtaining intelligence information originating outside of the United States. This was fully appreciated by the Congress in establishing the cleavage between the intelligence functions of the Central Intelligence Agency and the domestic functions of the other departments and agencies.

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CHAPTER X. NATIONAL SECURITY ACT OF 1947

Public Law 253, 80th Congress, the National Security Act of 1947, was approved by the Congress on the 25th of July 1947 and was signed by President Truman the following day. The provisions relating to the Central Intelligence Agency became effective 18 July 1947, the day after Mr. James Forrestal took the oath of office as the first Secretary of Defense.

Section 102 of the National Security Act of 1947 established the position of the Director of Central Intelligence and the Central Intelligence Agency. It also established functions and executive branch relationships for central intelligence. Congress provided the Agency with a definitive charter which did not unduly circumscribe, curtail, or interfere with functions of other agencies and departments of Government.

During the almost five months of Congressional deliberation a significant number of issues concerning CIA were resolved, this despite the fact that CIA was only one segment of a highly complicated and controversial legislative proposal.

Controversy surrounding the Agency which was prompted primarily by a misunderstanding of the functions to be performed was resolved for the most part to the satisfaction of all parties concerned. On a more general level the legislative history surrounding CIA bespeaks of overwhelming support for institutionalizing foreign intelligence to serve the needs of the President and his policy advisors. In so far as it is possible

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99. P. 20 supra.
100. P. 38 supra.
101. Hearings before Senate Committee on Armed Services on S. 758, 80th Cong., 1st Sess., p. 176 (1947).
102. Congressional Record, 7 July 1947, p. 8486.
103. H. Rep. 961, 80th Cong., 1st Sess., p. 3 (1947).
104. Hearings before House Committee on Expenditures in the Executive Departments on H.R. 2139, 80th Cong., 1st Sess., p. 120 (1947).
105. Ibid., p. 125.
106. Ibid., p. 170.
107. Statement of Lt. Gen. Vandenberg, Director of Central Intelligence, before the House Committee on Expenditures in the Executive Departments (1 May 1947), and Hearings before Senate Armed Services Committee on S. 758, 80th Cong., 1st Sess.
108. Hearings before Senate Committee on Armed Services on S. 758, 80th Cong., 1st Sess., p. 496 (1947).
109. P. 67 supra.

Chapter VIII.

114. P. 30 supra.
115. Hearings before House Committee on Expenditures in the Executive Departments on H.R. 2139, 80th Cong., 1st Sess., p. 439 (1947).
116. Congressional Record, 19 July 1947, p. 9604.
117. Congressional Record, 25 July 1947, p. 10271.
118. Fixed term appointment of up to 10 years had been suggested.
119. Rep. Robert A. Harness (R., Ind.).
120. 10 U.S.C. 576; R.S. sec. 1222; 14 Op. Atty. Gen. 200.
121. As reported out of Senate Committee, the salary of the position was reduced from \$14,000 to \$12,000 per annum in line with an across the board reduction for certain positions under the National Security Act of 1947.
122. Congressional Record, 7 July 1947, p. 8458. Admiral Sherman suggested before the Senate Committee that addition of the phrase "from military or civilian life" or vice versa would clarify the intent that a civilian could be appointed Director.
123. P. 26 supra.
124. S. Rep. 239, 80th Cong., 1st Sess., p. 10 (1947).
125. Congressional Record, 7 July 1947, p. 8486.
126. Congressional Record, 9 July 1947, p. 8664.
127. Hearings before the Committee on Expenditures in the Executive Departments on H.R. 2319, 80th Cong., 1st Sess., Unpublished classified transcript, 27 June 1947.
128. The House Committee on Expenditures in the Executive Departments set a salary of \$14,000 for the DCI, \$2,000 more than approved in S. 758. The salary of the Chairman of the National Security Resources Board was set at the same level. (See footnote 46 supra.) The salaries of the Service Secretaries were set at \$14,500. Cabinet members at the time received \$15,000 per annum.

129. Congressional Record, 19 July 1947, p. 9576.
130. Congressional Record, 19 July 1947, pp. 9605 - 9607.
131. H. Rep. 1051, 80th Cong., 1st Sess., National Security Act of 1947, pp. 3 - 4.
132. Congressional Record, 19 July 1947, p. 10271.
133. Congressional Record, 19 July 1947, p. 10272.

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134. P. 12 supra.
135. Statement of Lt. Gen. Vandenberg before Senate Committee on Armed Services. Hearings in the 80th Cong., 1st Sess., on S. 758, p. 497 (1947).
136. Additional views of Chairman Hoffman on H.R. 961, 80th Cong., 1st Sess., p. 11 (1947).
137. Hearings before Committee on Expenditures in the Executive Departments, H.R. 2319, 27 June 1947, p. 15.
138. Ibid., p. 28.
139. Ibid., p. 32.
140. Ibid., pp. 57 - 58.
141. Ibid., pp. 59 - 60.
142. Ibid., pp. 61 - 62.
143. Ibid., pp. 65 - 66.
144. Ibid., pp. 149 - 154.
145. Hearings before the Committee on Expenditures in Executive Departments in the House, 80th Cong., 1st Sess., H.R. 2319, National Security Act of 1947, pp. 127 - 128 (1947).
146. Ibid., p. 172.
147. Ibid., p. 559.
148. H.R. 4214, Sec. 105 (d) (3).
149. Congressional Record, 19 July 1947, p. 9591.
150. P. 21 supra.
151. Presidential Directive, 22 January 1946, para. 3B (see p. 20 supra).

152. Congressional Record, 19 July 1947, p. 9601.
153. Congressional Record, 19 July 1947, p. 9601.
154. H.R. 1051, 80th Cong., 1st Sess., National Security Act of 1947, Sec. 102 (E), 1947.